

CHAPTER 161 Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII, Sec. 8

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

161.01 DEFINITIONS.

The following words shall have the meanings ascribed to them in this chapter, except as and if the context clearly indicates or requires a different meaning:

- (a) "Association" means a partnership, limited partnership, **limited liability corporations and limited liability partnerships, Sub Chapter S Corporation as defined in the Federal Tax code** or any other form of unincorporated enterprise owned by ~~two~~ **one** or more persons. **The term association and unincorporated business are interchangeable terms.**
- (b) **"Board of Review" means the Board created by and constituted as provided by Section 161.12.**
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.
- (d) **Business Allocation as used in these Rules mans the portion of net profits to be allocated as having been made in the community either under the separate accounting method or under the three-factor formula or property, payroll and sales, or under a substitute method, as provided for in the Income tax ordinance.**
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency, **but does not include Sub Chapter S corporation as defined in the Federal Income Tax Code or any other entities defined as associations or unincorporated business entities.**
- (f) "Deputy Director of Finance" is the person who has been designated to act as administrative head of the Division of Income Tax of the Department of Finance.
- (g) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, who or that

- employs one or more persons on a salary, wage, commission or other compensation basis.
- (i) **“Generic form” means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income.**
 - (j) "Gross receipts" means the total income from any source whatsoever.
 - (k) **“Internet” means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub-network know as the World Wide Web.**
 - (l) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses, either paid or accrued, in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, or for Federal income tax purposes without deduction of taxes imposed by this chapter, or by Federal, State or other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.
 - (m) "Nonresident individual" means an individual who is not domiciled in Gahanna and whose usual place of abode is outside of the City.
 - (n) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within Gahanna.
 - (o) **“Parsonage allowance” is an amount paid to a “minister of the gospel” in the form of a rental allowance as part of the minister’s compensation, or the rental value of a home furnished to the minister as compensation.**
 - (p) **“Pass-through entity” means an association, partnership, S-corporation, limited liability company or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.**
 - (q) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof and as applied to corporations, the officers thereof.
 - (r) **“Personal services performed within the city,” means that when an individual performs personal services in the City for any part of a day, it is considered one day worked in the City.**
 - (s) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
 - (t) **“Professional athlete” means a person who is paid for participation in an individual or team sport and also for a single or multiple appearances at an event.**
 - (u) **“Professional entertainer” means a person who is paid for performing song, dance, music, comedy, drama and other arts either as an individual or as a member of a group for a single or multiple performance or appearance.**
 - (v) **“Promoters of professional entertainment or sports events and their employees” means a person or persons who are responsible for planning, making arrangements, or providing services to a professional entertainer or professional athlete.**
 - (w) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City. **Actual residency is not necessarily the domicile of the taxpayer. A Taxpayer may have more than one residence but not more than one domicile.**
 - (x) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
 - (y) The singular shall include the plural. The masculine gender shall include the feminine and the neuter genders.

- (z) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity, including rents, adjusted in accordance with the provisions of this chapter.
- (aa) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (bb) "Taxpayer" means a person, whether an individual, co-partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.
- (cc) "City" means the City of Gahanna. (Ord. 197-90. Passed 11-20-90.)

161.02 IMPOSITION OF TAX.

To provide for the purposes of general Municipal operations, maintenance, new equipment and capital improvements and to provide for the payment of principal and interest on certain bond issues of the City, there is hereby levied a tax at the rate of one and one-half percent (1 ½%) per annum on the following, **provided an exemption isn't granted under Section 161.17:**

- (a) On all salaries, wages, commissions, **distributions from associations**, and other compensations, earned or received by residents of the City.
- (b) On all salaries, wages, commissions and other compensations, earned or received by nonresidents of the City for work done or services performed or rendered in the City.
- (c)
 - (1) On the net profits earned or received of all unincorporated businesses, professions or other activities conducted ~~in the City~~ by residents of the City.
 - (2) On the net profits earned or received of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
 - (3) For the purposes of subsections (c)(1) and (2) hereof, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1992.
 - (4) For the purposes of subsection (c)(1) hereof, a resident of the City who is a member of an association that is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) hereof, effective for all accounting periods commencing on or after January 1, 1992.
- (d) On the net profits of all corporations, estates and trusts, derived from work done or services performed or rendered and business or other activities conducted in the City whether or not such corporation, estate and trusts have their principal or any place of business located in the City.
- (e) Payments made to employees by an employer as vacation wages are taxable and payments are made to any employee by an employer under a wage contribution plan during periods of disability or sickness are taxable.
- (f) Rentals from Real Property.
 - (1) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
 - (2) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of one hundred dollars (\$100.00)

per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided further that the person who operates a rooming house of two or more rooms rented shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

- (3) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.
- (4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (5) Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all other types of real estate.
- (6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.
- (7) Nonresidents of Gahanna are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00), shall take into consideration only real estate situated within Gahanna.
- (8) Residents of Gahanna are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.
- (9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in Gahanna.
(Ord. 183-92. Passed 8-18-92.)

161.03 ALLOCATION OF NET PROFITS.

(a) In the taxation of income which is subject to the tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for purposes of the tax. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period of the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be

- determined by multiplying the annual rental thereon by eight.
- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or professions for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or professions, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed, during the taxable period, in the City, to gross receipts of the business or profession during the same period from sales and services wherever made or performed.

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Deputy Director of Finance so as to produce such result.

(c) As used in this chapter, "sales made in the City" means:

- (1) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
 - (2) All sales of tangible personal property which is delivered within the City regardless of where title passes, even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
 - (3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (Ord. 197-90. Passed 11-20-90.)

161.04 LEVY OF TAX.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, **distributions from associations**, rents and all other compensation earned or received unless specifically excluded in Section 161.17 on and after January 1, 1977, and with respect to the net profits of business, professions or other activities earned or received on and after January 1, 1977. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned or received on and after January 1, 1977, to close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing initial tax the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months within the period commencing January 1, 1977, and ending at the conclusion of such fiscal year.

(Ord. 197-90. Passed 11-20-90.)

161.05 RETURN AND PAYMENT OF TAX.

- (a) Each taxpayer who engages in business, or whose salaries, wages, commissions, **distributions from associations**, rents and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and

file a return on or before April 15, of each year with the Deputy Director of Finance on a form furnished by or obtained from the Deputy Director of Finance, setting forth the aggregate amount of salaries, wages, commissions, **distributions from associations**, rents and other compensation earned or received and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Deputy Director of Finance may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth day of the fourth month after the close of such fiscal year or other period. Any return not so filed shall be subject to a penalty of twenty-five dollars (\$25.00) and shall be subject to penalties and interest as provided for in Section 161.15.

- (b) **The taxpayer may substitute a “generic” income tax return for the one provided by the Deputy Director of Finance if the returns and documents contain all of the information that the municipal corporation otherwise requires, and if the filer otherwise complies with the municipal corporation’s filing requirements. Under the act, a generic form is any electronic or paper form designed for reporting estimated municipal income taxes and annual tax liability, but that is not prescribed by any particular municipal corporation.**
- (c) **On and after January 1, 2002, the taxpayer may be able to obtain electronic versions of any rules or ordinances governing Gahanna taxes through the internet, including, but not limited to, ordinances or rules governing the rate of tax; payment and withholding of taxes; filing any prescribed returns, reports, or other documents; dates for filing or paying taxes, including estimated taxes; penalties, interest, assessment, and other collection remedies; rights of taxpayers to appeal; and procedures for filing appeals, on and after that date. Blank returns, reports, and documents shall also be made available to the taxpayer.**

(d) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an **association or** unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one **association or** unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits. A husband and wife, in any taxable year, may elect to file separate or joint returns.

(e) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.

~~(f) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be~~

~~taken into consideration in computing net profits or business allocation percentage formula.~~

(f) **The City shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the city's tax if that affiliated group filed consolidated returns for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.**

(g) The taxpayer making a return shall, at the time of the filing thereof, pay to the Deputy Director of Finance the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 161.07, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 161.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 161.18, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(h) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.

(i) Any taxpayer subject to the provisions of this chapter may, in lieu of filing a detailed return prescribed by the Deputy Finance Director, file a statement of salaries, wages, commissions, **distributions from associations**, compensation, net profits or gross receipts before taxes in respect thereof and dividends paid or declared reported on his income tax return to the Federal government, increased by any deferred compensation excludable from current Federal taxation. The taxpayer filing such statement shall pay the tax of one and one-half percent (1 ½%) per annum hereby levied on the amount reported in such statement.

(j) The Deputy Director of Finance shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed three months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. This extends the time for filing only, not the payment of any tax that may be due. The Deputy Director of Finance may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. (Ord. 197-90. Passed 11-20-90.) **To receive a filing extension, a taxpayer must file a copy of the federal filing extension request or the Gahanna extension request with Gahanna no later than the normal filing deadline.**

161.06 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

(a) Where an amended return must be filed in order to report additional income and pay any additional tax due, or claim of refund of tax overpaid subject to the requirements and/or limitations contained in Section 161.05(e), such amended return shall be on a form obtainable on request from the Deputy Director of Finance. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original

return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability; and pay any additional tax shown thereon or make a claim for refund of any overpayments.

(c) No refund shall be allowed unless a written request be presented to the Income Tax Division within three years of the date the taxes are due.

(d) Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's City return, such taxpayer shall make and file an amended City return and pay any additional tax shown thereon. **Failure to amend the return will subject the taxpayer to a \$100.00 penalty and/or the penalties imposed under Section 161.15 (b)(1).**

(Ord. 197-90. Passed 11-20-90.)

161.07 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax of one and one-half percent (1-1/2%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payment showing that all taxes deducted during the quarter have been paid to the City in accordance with this chapter. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. The employer shall retain records necessary to compute tax liability for five years from the date the return is filed, or taxes required to be withheld are paid.

(b) **The City shall not require any nonresident employer, agent of such employer, or other payer that is not situated in the City to deduct and withhold taxes from the withholding base of an individual unless the total amount of tax required to be deducted and withheld for Gahanna on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars for a calendar year beginning on or after that date.**

(1) **If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars for a calendar year beginning on or after January 1, 2001, the City may require the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars**

or less, except as otherwise provided in (b)(2) of this section.

- (2) **If a nonresident employer, agent of such an employer, or other payer that is not situated in the City is required to deduct and withhold taxes for an ensuing year under (b)(1) of this section, and the total amount of tax required to be deducted and withheld under that division in each of three consecutive ensuing years is one hundred fifty dollars or less, the City shall not require the employer, agent, or other payer to deduct and withhold taxes in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds one hundred fifty dollars.**

(c) Employers shall pay to the City all income taxes withheld or required to be deducted on either a monthly or quarterly basis, depending upon the amount of taxes involved according to the following payment schedule unless, due to nonpayment, a more stringent schedule is prescribed by the Deputy Director of Finance.

- (1) Monthly payment of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were more than one thousand one hundred ninety-nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payment shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments need not be paid until the last day of the month following such quarter.
- (2) All employers not required to make monthly payments of taxes withheld under subsection (b)(1) hereof shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (3) Every employer doing business within the City on a temporary basis shall pay to the City all income taxes withheld or required to be deducted and withheld on a monthly basis regardless of the amount of taxes involved. Such payment shall be paid to the City within fifteen days after the close of each calendar month. An employer is "doing business within the City on a temporary basis" when the employer maintains a place of business in the City or does business within the City for a period which the employer does not expect to exceed one year.

(d) The employer shall make and file a return on a form furnished by the Deputy Director of Finance showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the City.

(e) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Deputy Director of Finance following any calendar year in which such deductions have been made, or should have been made by any employer, shall file with the Deputy Director of Finance an information return (Gahanna Withholding Statement of Wages Paid and Gahanna Income Tax Withheld Form W-2) for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid such employee during the year, and the amount of City Income Tax withheld from each

employee. In addition, each Form (W-2) shall show the employer's name, address, and City account number. An adding machine tape or list of amount of tax withheld and taxable wages as shown on the W-2's shall be attached with the number of W-2's shown. Any return not so filed shall be subject to a penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of two hundred fifty dollars (\$250.00).

(f) In addition to the above, any person paying money to an individual independent contractor shall report such payment. The information should be reported on Federal Form 1099 and filed yearly on or before January 31st.

(g) Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(h) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a failure of the corporation to file returns or pay tax due prior to dissolution.
(Ord. 303-93. Passed 12-21-93.)

161.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 161.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 161.02, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any, provided however, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 161.07, such person need not file a declaration.

(b) Such declarations shall be filed on or before April 15 of each year during the life of this chapter or on or before the fifteenth day of the fourth month the taxpayer becomes subject to tax for the first time.

(c) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(d) Such declaration shall be filed upon a form furnished by, or obtainable from the Deputy Director of Finance, provided, however, credit shall be taken for the City tax to be withheld from any portion of such income. Credit may be taken for tax paid to other municipalities in accordance with the provisions allowed in Section 161.18.

(e) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

(f) Such declarations of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the sixth and ninth months, and on the fifteenth of the twelfth month after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 161.05.

(h) A declaration of estimated tax which is less than eighty percent (80%) of the tax as shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 161.15.
(Ord. 23-92. Passed 2-18-92.)

161.09 MANDATORY REGISTRATION.

(a) All employers, contractors or subcontractors who do work in the City shall register with the Deputy Director of Finance, and shall present a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the Gahanna City income tax.

(b) Commencing September 1, 1977, and annually thereafter, each owner, or his duly designated agent, of real property located within the City and which is rented or available for rent as of that date shall submit to the Deputy Director of Finance of the City a list of those tenants occupying or having occupied these rental units during the past year, and those units presently vacant. Such list shall identify tenant with name, drivers license number or date of birth. For purposes of this section, "rental units" includes any unit of real property which is subject to a rental agreement whether oral or written, for residential, commercial or industrial purposes.

(c) Any person who violates this section shall be guilty of a misdemeanor and shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation or subject to a maximum penalty of two hundred fifty dollars (\$250.00).
(Ord. 303-93. Passed 12-21-93.)

161.10 DIVISION OF TAXATION; DUTIES OF THE DEPUTY DIRECTOR OF FINANCE.

(a) There is hereby established within the Department of Finance a Division of Income Taxation of which the Deputy Director of Finance shall be the administrative head, which Division shall be responsible for all matters constituting the subject matter of this chapter. The Director of Finance shall appoint such other officers and employees as may be provided for by Council.

(b) The Deputy Director of Finance shall be appointed by the Director of Finance. He or she shall be bonded.

(c) It shall be the duty of the Deputy Director of Finance to collect and receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof, and to report and turn over to the Director of Finance all moneys so received.

(d) It shall be the duty of the Deputy Director of Finance to enforce payment of all tax owing the City; to keep accurate records for a minimum of five years showing the amount due from each tax payment and the date of such payment.

(e) The Deputy Director of Finance is hereby charged with the administration and enforcement of the provisions of this chapter, and he or she is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

(f) The Deputy Director of Finance is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proven to the Deputy Director of Finance that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. (Ord. 197-90. Passed 11-20-90.)

161.11 INVESTIGATIVE POWERS OF THE DEPUTY DIRECTOR OF FINANCE.

(a) The Deputy Director of Finance, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or who the Deputy Director of Finance believes is subject to the provisions of this chapter, for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the Deputy Director of Finance or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Deputy Director of Finance is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would have been returned for taxation of any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 197-90. Passed 11-20-90.)

161.12 ASSESSMENT.

(a) If the Deputy Director of Finance finds that any taxpayer, or any employer subject to the provisions of Section 161.07 has failed to pay the full amount of the tax due or funds withheld, he shall issue a proposed assessment showing the amount of tax or funds due and unpaid together with any interest and penalty that may have accrued thereon.

(b) Such proposed assessment shall be served upon the taxpayer or employer, as the case may be, in person or by mailing to the last known address of such taxpayer or employer. Proof of mailing such proposed assessment shall be presumptive proof of receipt thereof by the addressee.

(c) A taxpayer or employer shall have twenty days after receipt of a proposed assessment within which to file a written protest with the Deputy Director of Finance. The Deputy Director of Finance then shall give the protestant an opportunity to be heard. After the hearing the Deputy Director of Finance shall issue a final assessment setting forth the total amount found due in the proposed assessment, and any adjustment he may have made as a result of the protest. Such final assessment shall be served in the same manner as a proposed assessment.

(d) In the event a protest is not filed in response to a proposed assessment, it shall become final the twenty-first day after receipt thereof by a taxpayer or employer, and notice thereof shall be served in the same manner as in the case of a proposed assessment. (Ord. 197-90. Passed 11-20-90.)

(e) There is hereby established, in and for the City, an Income Tax Board of Review, consisting of three individuals to be recommended by the Mayor and confirmed by Council. The Board shall adopt its own procedural rules and shall keep a record of its meetings. Any hearing by the Board may be conducted in a closed session upon the written request of the taxpayer with reference to the confidential character of information to be disclosed.

Any person dissatisfied with any ruling of the Deputy Director of Finance which is made under the authority conferred by this chapter may appeal therefrom to the Board, provided that the taxpayer filed the required tax returns and documents. Request for appeals must be filed with the Board within 30 days after the Deputy of Finance issues an appeal decision. The request must be in writing and state the alleged errors in the decision. The Board must schedule a hearing within 45 day after receiving a request, unless the taxpayer waives the hearing. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and be represented by an attorney at law, certified public accountant, or other representative. The Board must issue a decision within 90 days after the final hearing, and send a notice of its decision to the taxpayer within 15 days after issuing the decision.

161.13 TAX INFORMATION CONFIDENTIAL.

Any information gained as the result of any returns, investigations, hearings or

verifications required or authorized by this chapter shall be confidential, except for official tax purposes or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be subject to a fine or penalty of not more than three hundred dollars (\$300.00) and imprisoned not more than three months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provision of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City.

(Ord. 198-89. Passed 12-19-89.)

161.14 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon by suit, as other debts of like amount are recoverable.

The Deputy Director of Finance is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing to the City by virtue of the provisions of this chapter. The Deputy Director of Finance is authorized to waive penalties and interest and compromise tax liability and has the right to accept waiver of State Statutes of Limitations.

(Ord. 197-90. Passed 11-20-90.)

161.15 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of one and one quarter percent (1-1/4%) per month or fraction thereof.

(b) In addition to the interest provided in subsection (a) hereof, penalties on unpaid tax are imposed as follows:

- (1) In the case of a taxpayers failure to file a return or and pay tax within 105 days of the close of the taxpayers tax year, **or amend its tax return after a refund has been received for which credit has been taken against its Gahanna tax**, a penalty of five percent (5%) per month or portion thereof of net tax liability after credits, the maximum penalty under this subsection shall be twenty-five percent (25%) of unpaid tax liability.
- (2) In the case of an employer who fails to withhold or fails to remit taxes withheld or taxes which should have been withheld from employees, a penalty of ten percent (10%) per month or portion thereof of the amount of tax due, the maximum penalty under this subsection shall be one hundred percent (100%) of the amount due.
- (3) In the case of a taxpayer who underestimates or underpays when filing a declaration required by Section 161.08 or in the case of a taxpayer who fails to file a declaration as required by Section 161.08 or who fails to make quarterly payments when due under Section 161.08 a penalty of ten percent (10%) of the unpaid or underpaid tax.
- (4) There is no maximum limit to the penalties imposed in this subsection in the case of a taxpayer who willfully neglects to pay any tax due or who intentionally disregards any provision of this chapter.

(c) All payments received shall be applied first to any interest and penalty owed, then to tax balances. (Ord. 303-93. Passed 12-21-93.)

161.16 VIOLATIONS; PENALTIES.

Any person subject to the provisions of this chapter who shall fail, neglect or refuse to make any return or declaration, or any employer who shall fail, neglect or refuse to deduct and willfully withhold the taxes or pay the taxes imposed by this chapter or any taxpayer who shall fail, neglect or willfully or fraudulently refuse to pay the tax, interest and penalties imposed by this chapter, or any person who shall refuse to permit the Deputy Director of Finance or his duly authorized agent or employee to examine the books, records and papers of a taxpayer, or any person who shall knowingly make an incomplete, false, or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax under this chapter shall be deemed guilty of a misdemeanor of the fourth degree for this first offense, and for a second or subsequent offense shall be guilty of a misdemeanor, third degree. The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse him from making a return or declaration or paying the tax levied under this chapter. (Ord. 86-94. Passed 5-17-94.)

161.17 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

- (a) Funds received from local, state or federal governments because of service in the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service.
- (b) Poor relief, old age pensions or similar payments, including unemployment or disability benefits received from local, state or federal governments, or charitable, religious or educational organizations.
- (c) Pensions, disability benefits or annuities from whatever source derived.
- (d) Dues, contributions and similar payments received by charitable, religious or educational organizations, or by labor unions, trade associations, lodges and similar organizations.
- (e) Receipts from casual sales and seasonal or casual entertainment, amusements and sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Mentally retarded and developmentally disabled employees earning less than the minimum hours wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein with approval of the Tax Administrator.
- (h) (Ord. 990393. Passed 9-7-99.)
- (i) **Parsonage allowance.**
- (j) **Compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in the calendar year unless one of the following applies.**
 - (1) **The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days and the individual is not liable to that other municipal corporation for tax on the compensation.**
 - (2) **This sub-section does not apply to professional entertainment or sports events and their employees.**

161.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Every individual taxpayer who resides in the City, but who received net profits, salaries, wages, commissions, **distributions from associations**, or other compensation for work done or services performed or rendered outside the City, if it is made to appear that he

has paid a municipal income tax or excise tax based on income, or such net profits, salaries, wages, commissions, **distributions from associations** or other compensation in another municipality, shall be allowed a credit of eighty-three and one-third percent (83-1/3%) of the amount so paid by him or in his behalf in such other municipality to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or other compensation earned in such other municipality where such tax is paid. In no instance shall the allowable credit for tax paid another municipality exceed the amount of tax imposed by this chapter. Prior to any alteration of this section, Council shall, at least sixty days prior to any revision, conduct a minimum of three public hearings on any proposed amendment.

(b) Commencing with the 1983 fiscal year for the City, and continuing thereafter until otherwise determined by Council, the tax proceeds collected under the provisions of subsection (a) hereof, as those proceeds are certified by the Finance Director shall be exclusively reserved or expended for and upon capital improvement or maintenance projects within the City as specifically approved and authorized by Council and which directly benefit the general public. Council shall budget and appropriate each fiscal year from the tax proceeds collected herein a minimum of one hundred thousand dollars (\$100,000) for street repair and maintenance, fifty thousand dollars (\$50,000) for police capital equipment and twenty thousand dollars (\$20,000) for stormwater system improvement and maintenance provided that the Finance Director can reasonably and fairly estimate tax proceeds to be collected during the fiscal year at no less than two hundred fifty thousand dollars (\$250,000)

(c) Commencing with the 1984 fiscal year for the City, and continuing thereafter until otherwise determined by Council, the tax proceeds collected under the provisions of subsection (a) hereof, as those proceeds are certified by the Finance Director shall be exclusively reserved or expended for capital improvements and equipment in the following categories:

- (1) Safety;
- (2) Streets; and
- (3) Stormwater Maintenance.

(Ord. 4-89. Passed 2-7-89.)

161.19 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said hereby further agrees to withhold all City income tax due or payable under the provisions of Chapter 161, Income Tax, of the Codified Ordinances of the City of Gahanna, Ohio, for wages, salaries, and commissions paid to its employees and further agrees that any of its contractors shall be required to agree to withhold any such City income taxes due under said Chapter for services performed under this contract."

(Ord. 197-90. Passed 11-20-90.)

161.20 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter except as defined in Section 161.18, shall be deposited to the General Fund and be applied for the following purposes, and in the following order to wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of maintaining the Division of Taxation and administering and enforcing the provisions thereof.
- (b) Such part thereof as Council may appropriate for the purpose of paying the cost of general municipal operations.
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost for repairs and maintenance of streets.
- (d) Such part thereof as Council may appropriate for the purpose of purchasing new equipment, maintenance, and capital improvements.

- (e) Such part thereof as Council may appropriate for the payment of principal and interest on certain bond issues for capital improvements.
(Ord. 154-82. Passed 12-21-82.)

161.21 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 154-82. Passed 12-21-82.)

New Section. 161.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be guilty of a minor misdemeanor on a first offense, and a third degree misdemeanor for a second and subsequent offense.